

**DEPARTMENT SIXTEEN
JUDGE SCOTT L. KAYS
707-207-7316
TENTATIVE RULINGS SCHEDULED FOR
TUESDAY, SEPTEMBER 8, 2015**

**IVEY v. ACKERMAN, et al.
Case No. FCS043185**

Motion for Summary Judgment filed by Defendants ACKERMAN and
BCI COCA-COLA BOTTLING COMPANY OF LOS ANGELES, INC.

TENTATIVE RULING

The motion for summary judgment is denied. The undisputed facts submitted are not sufficient for the court to find, as a matter of law, that defendant BCI COCA-COLA BOTTLING CO. OF LOS ANGELES, INC., ("BCI") was a special employer of plaintiff at the time of the accident, and that therefore, this action is barred by the worker's compensation exclusive remedy rule.

A number of the facts submitted by defendants in support of the motion relate to plaintiff's employment as a warehouse worker before he was laid off and before he began working as a driver's helper through Advantage Health Resourcing, Inc. (Fact Nos. 1-9). These facts are irrelevant as to whether BCI was a special employer to plaintiff when he was working as a driver's helper at the time of the accident.

In addition, the evidence cited in support of particular facts do not actually support the fact, as claimed. A number of "facts" make claims about BCI. However, the evidence submitted, primarily plaintiff's deposition, does not mention BCI, and therefore does not support the facts submitted about BCI. (Fact Nos. 15, 16, 18, 20, 21, 23, 24). Other facts are disputed by conflicting evidence submitted by plaintiff. (Fact Nos. 12, 13, 17).

The remaining undisputed facts, primarily regarding plaintiff's interactions with Donny Cardoza, an employee of BCI, are not sufficient to establish, as a matter of law, that BCI was a special employer to plaintiff.